



03:51pm From-PATTON BOGGS

T-759 P 003/015 F-808  
*#11*

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. Patent Application No.: 09/699,523 ) Group Art Unit: 2124  
Filing Date: October 30, 2000 ) Examiner: Mai, Tan V.  
For: Random Number Generator And ) Docket No.: 013323.0101D1US  
Generation Method ) (Formerly 2022/002D1)  
Applicant: Scott A. Wilber ) Confirmation No.: 7309  
 )  
 ) Paper No.: 17

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JAN 13 2004

OFFICE OF PETITIONS

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8  
I hereby certify that this correspondence, along with all papers referred to as being transmitted, are being facsimile transmitted to the Patent and Trademark Office Fax No. (703) 746-4000.

*January 8, 2004*  
Date

*Elaine C. Von Spreckelsen*  
Elaine C. VonSpreckelsen

BOX ISSUE FEE  
COMMISSIONER FOR PATENTS  
PO BOX 1450  
ALEXANDRIA, VA 22313-1450

Dear Sir:

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT  
INDICATED IN NOTICE OF ALLOWANCE UNDER RULES 1.702(a)(2) AND 1.705(b)**

This Request For Reconsideration Of Patent Term Adjustment (PTA) pursuant to 37 CFR §1.702(a)(2) and §1.705(b) is responsive to the Notice Of Allowance And Fee(s) Due and the Determination Of Patent Term Adjustment Under 35 U.S.C. 154(b) mailed December 29, 2003, a copy of which is attached hereto as Exhibit A.

This Request is timely filed because it is being filed concurrently with the payment of the issue fee.

**(1) Fee**

The fee set forth in §1.18(e) as required by §1.705(b)(1) is enclosed.

**(2) Statement of Facts**

A copy of the Patent Term Adjustment Report (PTA Report) from PAIR is attached

Serial No. 09/699,523

Request For Reconsideration Of PTA

Page 1

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01/09/2004

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hereto as Exhibit B. This document indicates a USPTO delay of 12 days. It also indicates an Applicant delay of 109 days. The Applicant delay of 109 days is respectfully traversed.

The PTA Report erroneously states that the response to the non-final action of 03-28-2003 was not filed until 10-15-2003. This is not correct. The response was actually faxed to and received by the USPTO on April 9, 2003. A copy of the fax cover sheet transmission report and the subsequent Auto-Reply from the USPTO is attached hereto as Exhibit C. Even though the response was timely filed, it never was matched with the application file at the USPTO and provided to the Examiner. The undersigned's secretary left a message for the Examiner in early October to determine the status of the application. The Examiner returned the call on October 10, 2003 and informed the secretary that he had not received the response. The secretary promptly faxed the documents to the Examiner, as shown by the fax cover sheet transmission report attached hereto as Exhibit D. The Examiner responded to the response on December 29, 2003 by issuing a Notice of Allowance.

Pursuant to §1.702(a)(2), due to a USPTO error, the Examiner did not respond to a reply under 35 U.S.C. 132 within four months after the date on which the reply was filed. As indicated above, a Response To Office Action mailed March 28, 2003 was filed via fax on April 9, 2003. The USPTO was allowed four months from the date of filing the Response To Office Action to respond, i.e., August 9, 2003. Since the Examiner did not respond until December 29, 2003, the Applicant is entitled to a patent term adjustment of 154 days, as shown by the following calculation:

USPTO Delay in mailing Restriction Requirement (See Exhibit B): 12 days  
USPTO Delay in Responding to Response filed April 9, 2003:

August	22 days
September	30 days
October	31 days
November	30 days
December 1 – December 29	29 days
<b>TOTAL</b>	<b>154 days</b>

The patent is not subject to a terminal disclaimer.

**Serial No. 09/699,523**  
**Request For Reconsideration Of PTA**  
**Page 2**  
190816v2

There were no circumstances during the prosecution of the application that constitute a failure to engage in reasonable efforts to conclude the processing or examination of the application as set forth in §1.704.

**(3) Alternative Basis for Reconsideration**

If the Director determines that this Request should be a request for reinstatement of all or part of a period of adjustment reduced pursuant to §1.704(b) for failing to reply to a rejection within three months of the date of mailing of the Office communication, then the above facts represent a showing that, in spite of due care, the Applicant was unable to reply to the rejection within three months. In that case, the Commissioner is authorized to charge the fee under §1.18(f) to Deposit Account No. 50-1848. However, the enclosed exhibits clearly show that Applicant did, in fact, respond to the Office Action of March 28, 2003 well before the required due date of June 28, 2003. By filing the response on April 9, 2003, which is only 12 days after the mailing of the Office Action, Applicant was, in fact, doing everything in its power to accelerate the prosecution of this application.

**(4) Conclusion**

The facts shown by the enclosed exhibits, as well as the early filing of this Request and the Issue Fee, indicate that the Applicant not only has been timely in its responses, but has been and is doing everything possible to accelerate the prosecution of this patent application. For the above reasons, the reconsideration of the patent term adjustment determination and granting of a PTA of 154 days is respectfully requested. The small entity fee set forth in §1.18(e) required by §1.705(b)(1) is enclosed. If any additional fee is required, please charge it to Deposit Account No. 50-1848.

Respectfully submitted,  
**PATTON BOGGS LLP**

By:

  
Carl A. Forest, Reg. No. 28,494  
Telephone: 303-894-6114  
Facsimile: 303-894-9239  
Customer No.: 24283

**Serial No. 09/699,523**  
**Request For Reconsideration Of PTA**  
**Page 3**  
190846v2



O I P E  
JAN 08 2004  
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UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office  
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**NOTICE OF ALLOWANCE AND FEE(S) DUE**

24283 7590  
PATTON BOGGS  
PO BOX 270930  
LOUISVILLE, CO 80027

12/29/2003

Action Due Not of All + 1/2 fees  
Due Date 3/29/04  
Docketed On 1/6/04  
By Mes Atty/Cap

*File Div?*

EXAMINER	MAI, TAN V
ART UNIT	PAPER NUMBER
2124	

DATE MAILED: 12/29/2003

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/699,523	10/30/2000	Scott A. Wilber	2022/002D1	7309

TITLE OF INVENTION: RANDOM NUMBER GENERATOR AND GENERATION METHOD

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$665	\$0	\$665	03/29/2004

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

**HOW TO REPLY TO THIS NOTICE:**

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

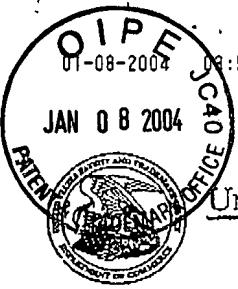
B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

Applicant claims SMALL ENTITY status.  
See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.



01-08-2004 10:53pm From-PATTON BOGGS

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[www.uspto.gov](http://www.uspto.gov)

13323,101 D1

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/699,523	10/30/2000	Scott A. Wilber	2022/002D1	7309
24283	7590	12/29/2003		
PATTON BOGGS PO BOX 270930 LOUISVILLE, CO 80027			JAN 05 2004	EXAMINER MAJ, TAN V
				ART UNIT 2124
				PAPER NUMBER 16
DATE MAILED: 12/29/2003				

**Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)**  
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

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-------------------------------------------	-----------------------------------	------------------------------------------------	-------------------------------------

PAGE 9/15 \* RCVD AT 1/8/2004 5:52:30 PM [Eastern Standard Time]\* SVR:USPTO-EFXRF-2/1 \* DNI:7464000 \* CSID:1 \* DURATION (mm:ss):04:54

### Patent Term Adjustment (PTA) for publication number: 09/699,523

		Days
Filing or 371(c) Date:	10-30-2000	USPTO Delay (PTO): 12
Issue Date of Patent: -		Three Years: -
Pre-Issue Petitions (days): +0		Applicant Delay (APPL): 109
Post-Issue Petitions (days): +0		Total PTA: 0
USPTO Adjustment (days): +0		Explanation of Calculations

File Contents History     Foreign Priority     Continuity Data     Publication Review

### Patent Term Adjustment History

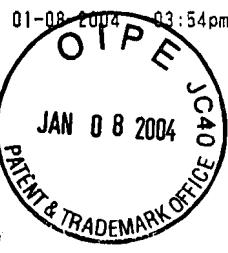
Number	Date	Contents Description	PTO (days)	APPL (days)
39	12-29-2003	Mail Notice of Allowance		
38	12-29-2003	Notice of Allowance Data Verification Completed		
37	12-29-2003	Case Docketed to Examiner in GAU		
36	12-29-2003	Notice of Allowability		
35	10-24-2003	Date Forwarded to Examiner		
34	10-15-2003	Response after Non-Final Action	109	1
33	03-28-2003	Mail Non-Final Rejection		
32	03-24-2003	Non-Final Rejection		
31	01-17-2003	Date Forwarded to Examiner		
30	01-16-2003	Response after Non-Final Action		
29	11-21-2002	Mail Examiner Interview Summary (PTOL - 413)		
28	11-20-2002	Examiner Interview Summary Record (PTOL - 413)		
27	10-17-2002	Mail Non-Final Rejection		
26	10-15-2002	Non-Final Rejection		
25	08-06-2002	Date Forwarded to Examiner		
24	07-30-2002	Response after Non-Final Action		
23	07-30-2002	Oath or Declaration Filed (Including Supplemental)		
22	04-30-2002	Mail Non-Final Rejection		

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21	04-26-2002	Non-Final Rejection
20	04-19-2002	Date Forwarded to Examiner
19	04-16-2002	Response to Election / Restriction Filed
18	04-19-2002	Mail Restriction Requirement
17	04-08-2002	Requirement for Restriction / Election
16	04-08-2002	Case Docketed to Examiner in GAU
13	01-25-2002	Date Forwarded to Examiner
12	01-21-2002	Response to Election / Restriction Filed
11	01-11-2002	Mail Restriction Requirement
10	01-11-2002	Requirement for Restriction / Election
9	04-19-2001	Case Docketed to Examiner in GAU
8	02-06-2001	Case Docketed to Examiner in GAU
7	10-30-2000	Preliminary Amendment
6	10-30-2000	Information Disclosure Statement (IDS) Filed
5	01-16-2001	Application Dispatched from OIPE
4	01-09-2001	Correspondence Address Change
3	01-03-2001	Correspondence Address Change
2	11-28-2000	IFW Scan & PACR Auto Security Review
1	10-30-2000	Initial Exam Team nn

Initial f. date  
2/14/05

1.HOME | INDEX | SEARCH | eBUSINESS | CONTACT US | PRIVACY STATEMENT

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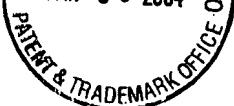
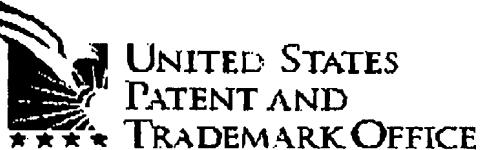
USPTO-&gt;

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Page 001

To: Auto-reply fax to 3033791155 COMPANY:

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Cover  
Page

PATTON BOOGS		Fax: 3033791155	Apr 9 2003 10:58	P.01
<b>PATTON BOOGS LLP</b> <small>ATTORNEYS AT LAW</small>				
507 Coal Creek Circle, Suite 200 Louisville, CO 80027-4670 303-379-1155 Fax: 303-379-1155				
To: Examiner Tan V. Mai Company: Commissioner Of Patents And Trademarks Fax Number: 1-703-746-7239 Phone Number: 1-703-305-9761 Application No.: 09/699,523				
Total Pages including Cover: 7				
From: Elaine E. VonSpakowski, Secretary to Carl A. Pomer				
Sender's Direct Line: 303-379-1124				
Date: April 9, 2003				
Client Number: 13323.101D1US (102) (Formerly 2022/002D1)				
Comments:				
Serial No.: 09/699,523 Group No. 2121 Filed: 30 Oct 2000 Examiner: Mai, Tan V.				
Attached please find the Amendment and Remarks responsive to the Office Action mailed March 28, 2003 to be filed in the above application. If you have any questions, please do not hesitate to contact me.				
Confidentiality Notice: The documents accompanying this facsimile contain information from the law firm of Patton Boggs LLP, which is confidential and/or privileged. The information is intended only for the use of the individual or entity named on the document or entity named on the examination sheet. You are not the intended recipient. If you are hereby notified that any disclosure, copying, distribution or the taking of any action in respect of this information is unauthorized, it is strictly prohibited, and that the documents should be returned to the Firm immediately. If you have received this document in error, please notify us by telephone immediately so that we can arrange for the return of the original documents to us at no cost to you.				
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PATTON BOGGS 3033791155

\*\*\* Transmit Conf. Report \*\*\*

Apr 9 2003 10:59

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
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Louisville, CO 80027-4870  
303-379-1100

Facsimile 303-379-1155

To:	Examiner Tan V. Mai
Company:	Commissioner Of Patents And Trademarks
Fax Number:	1-703-746-7239
Phone Number:	1-703-305-9761
Application No.:	09/699,523
Total Pages	
Including Cover:	7
From:	Elaine C. VonSpreckelsen, Secretary to Carl A. Forest
Sender's Direct Line:	303-379-1124
Date:	April 9, 2003
Client Number:	13323.101D1US (.102) (Formerly 2022/002D1)
Comments:	

ANCHORAGE

Group No. 2121

BOULDER

Examiner: Mai, Tan V.

DALLAS

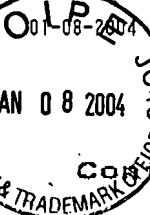
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NORTHERN VIRGINIA

WASHINGTON, D.C.

Attached please find the Amendment and Remarks responsive to the Office Action mailed March 28, 2003 to be filed in the above application. If you have any questions, please do not hesitate to contact me.

**Confidentiality Note:** The documents accompanying this facsimile contain information from the law firm of Patton Boggs LLP which is confidential and/or privileged. The information is intended only for the use of the individual or entity



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T-759 P.013/015 F-808

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## Confirmation Report - Memory Send

Time : 10-10-2003 10:48am  
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Name : PATTON BOGGS

Job number : 165  
Date : 10-10 10:44am  
To : 917037467239-0133230102  
Document pages : 009  
Start time : 10-10 10:44am  
End time : 10-10 10:48am  
Pages sent : 009  
Status : OK  
Job number : 165

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**PATTON BOGGS LLP**  
ATTORNEYS AT LAW1660 Lincoln Street, Suite 1900  
Denver, CO 80284-1901  
303-894-1776

Facsimile: 303-894-9239

---

To: Examiner Tan V. Mai  
Company: Commissioner Of Patents And Trademarks  
Fax Number: 1-703-746-7239  
Phone Number: 1-703-305-8781  
Application No.: 09/899,523  
Total Pages Including Cover: 8  
From: Elaine C. VonSpreckelsen, Secretary to Carl A. Forrest  
Sender's Direct Line: 303-894-6163  
Date: October 10, 2003  
Client Number: 13323.101D1US (.102) (Formerly 2022/002D1)  
Comments:  
Serial No.: 09/899,523 Group No. 2121  
Filed: 30 Oct 2000 Examiner; Mai, Tan V.

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Pursuant to our conversation today, please find attached the Amendment and Remarks responsive to the Office Action mailed March 28, 2003 to be filed in the above application. This document was originally faxed to you on April 8, 2003, as evidenced by the copies of the Fax Coversheet and Auto-Reply Facsimile Transmission also attached. If you have any questions, please do not hesitate to contact me.

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EXHIBIT D



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PTO/SB/17 (10-03)  
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# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

 Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 865)

Application Number	09/899,523
Filing Date	30 Oct 2000
First Named Inventor	Scott A. Wilber
Examiner Name	Mal, Tan V.
Art Unit	2124 (Confirmation No. 7309)
Attorney Docket No.	013323.0101D1US (Formerly 2022/002D1)

METHOD OF PAYMENT (check all that apply)				FEE CALCULATION (continued)																																																																																																																																																																																															
<input type="checkbox"/> Check <input type="checkbox"/> Credit card <input type="checkbox"/> Money Order <input type="checkbox"/> Other <input type="checkbox"/> None <input checked="" type="checkbox"/> Deposit Account: Deposit Account Number 50-1646 Deposit Account Name Patton Boggs LLP				<b>3. ADDITIONAL FEES</b> <table border="1"> <thead> <tr> <th>Large Entity</th> <th>Small Entity</th> </tr> </thead> <tbody> <tr> <td>Fee Code</td> <td>Fee (\$)</td> <td>Fee Code</td> <td>Fee (\$)</td> <td>Fee Description</td> <td>Fee Paid</td> </tr> <tr> <td>1051</td> <td>130</td> <td>2051</td> <td>65</td> <td>SurchARGE - late filing fee or oetn</td> <td></td> </tr> <tr> <td>1052</td> <td>50</td> <td>2052</td> <td>25</td> <td>SurchARGE - late provisional filing fee or cover sheet.</td> <td></td> </tr> <tr> <td>1053</td> <td>130</td> <td>1053</td> <td>130</td> <td>Non-English specification</td> <td></td> </tr> <tr> <td>1812</td> <td>2,520</td> <td>1812</td> <td>2,520</td> <td>For filing a request for reexamination</td> <td></td> </tr> <tr> <td>1804</td> <td>820*</td> <td>1804</td> <td>820*</td> <td>Requesting publication of SIR prior to Examiner action</td> <td></td> </tr> <tr> <td>1805</td> <td>1,840*</td> <td>1805</td> <td>1,840*</td> <td>Requesting publication of SIR after Examiner action</td> <td></td> </tr> <tr> <td>1251</td> <td>110</td> <td>2251</td> <td>55</td> <td>Extension for reply within first month</td> <td></td> </tr> <tr> <td>1252</td> <td>420</td> <td>2252</td> <td>210</td> <td>Extension for reply within second month</td> <td></td> </tr> <tr> <td>1253</td> <td>950</td> <td>2253</td> <td>475</td> <td>Extension for reply within third month</td> <td></td> </tr> <tr> <td>1254</td> <td>1,480</td> <td>2254</td> <td>740</td> <td>Extension for reply within fourth month</td> <td></td> </tr> <tr> <td>1255</td> <td>2,010</td> <td>2255</td> <td>1,006</td> <td>Extension for reply within fifth month</td> <td></td> </tr> <tr> <td>1401</td> <td>330</td> <td>2401</td> <td>165</td> <td>Notice of Appeal</td> <td></td> </tr> <tr> <td>1402</td> <td>330</td> <td>2402</td> <td>165</td> <td>Filing a brief in support of an appeal</td> <td></td> </tr> <tr> <td>1403</td> <td>280</td> <td>2403</td> <td>145</td> <td>Request for oral hearing</td> <td></td> </tr> <tr> <td>1451</td> <td>1,510</td> <td>1451</td> <td>1,510</td> <td>Petition to institute a public use proceeding</td> <td></td> </tr> <tr> <td>1452</td> <td>110</td> <td>2452</td> <td>55</td> <td>Petition to revive - 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Filing An Application For Patent Term Adjustment</td> <td>200</td> <td></td> </tr> <tr> <td colspan="4">*Reduced by Basic Filing Fee Paid</td> <td colspan="2">SUBTOTAL (3) (\$ 865)</td> </tr> </tbody> </table>				Large Entity	Small Entity	Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid	1051	130	2051	65	SurchARGE - late filing fee or oetn		1052	50	2052	25	SurchARGE - late provisional filing fee or cover sheet.		1053	130	1053	130	Non-English specification		1812	2,520	1812	2,520	For filing a request for reexamination		1804	820*	1804	820*	Requesting publication of SIR prior to Examiner action		1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action		1251	110	2251	55	Extension for reply within first month		1252	420	2252	210	Extension for reply within second month		1253	950	2253	475	Extension for reply within third month		1254	1,480	2254	740	Extension for reply within fourth month		1255	2,010	2255	1,006	Extension for reply within fifth month		1401	330	2401	165	Notice of Appeal		1402	330	2402	165	Filing a brief in support of an appeal		1403	280	2403	145	Request for oral hearing		1451	1,510	1451	1,510	Petition to institute a public use proceeding		1452	110	2452	55	Petition to revive - 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Name (Print/Type)	Carl A. Forest	Registration No. (Attorney/Agent)	28,494	Telephone	303-884-6114																																																																																																																																																																																														
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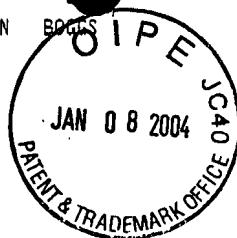
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1. Fee(s) Transmittal Form PTOL-85 (1 page)
2. Request For Reconsideration Of Patent Term Adjustment, with attachments (11 pages)
3. Fee Transmittal Form PTO/SB/17 (2 for a total of 2 pages)

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